UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/1995/592
19 July 1995
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 16 JULY 1995 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to refer to the letter of 6 July 1995 addressed to you by the Permanent Representative of Kuwait (S/1995/546), another in the series of the letters he submits on the approach of each review by the Security Council of the sanctions imposed on Iraq. I should like to state that, like its predecessors, this letter contains sophistries and groundless charges and that its objective, as is obvious, is to exert influence on the Security Council and delay the Council's decision to mitigate or lift the comprehensive sanctions imposed on Iraq five years ago.

So that you, the members of the Security Council and the international community as a whole may be made aware of the falsity of the allegations made in the Kuwaiti letter, we should like to set forth hereunder a number of facts and considerations.

I. MISSING PERSONS

In the Kuwaiti letter, the writer claims to be proceeding on the basis of a humanitarian view of the issue of the missing persons. However, the substance of the letter and the timing of its submission reveal the true state of affairs, namely that it is aimed at securing political objectives. The letter further claims that the relevant Iraqi authorities are not cooperating with the International Committee of the Red Cross (ICRC) and that it is this that has caused the lack of any substantive progress with regard to the missing persons issue. This allegation is refuted by the following facts and considerations:

1. The matter of the missing persons is being handled through the investigation of the individual dossiers submitted and under the supervision of the tripartite committee consisting of Iraq, as one party, and the coalition States (Kuwait, Saudi Arabia, France, the United Kingdom and the United States), as a second party, and with ICRC acting as chairman.

With regard to its actions in this matter, Iraq emphasizes four major principles, namely:

(a) Commitment to investigation in accordance with ICRC norms and practices;

(b) Cooperation with ICRC in its capacity as an impartial intermediary for the settlement of this humanitarian issue;

(c) Adherence to the rules of confidentiality and the avoidance of politicization;

(d) Cooperative and joint action with a view to arriving at a rational determination of the fate of the persons claimed to be missing on the basis of information of reasonable credibility.

Iraq has constantly affirmed its position with respect to continued action with a view to closing the file on this issue for humanitarian reasons, in accordance with the principles stated above, and it has no political interest of any kind in its prolongation.

2. Since June 1994 Iraq has continued to participate in the periodic meetings of the tripartite committee. As of the date of writing, it has submitted preliminary replies on 230 dossiers, and these replies have been communicated to the Kuwaiti authorities through ICRC.

3. On 8 December 1994 the tripartite committee formed a technical subcommittee to undertake the detailed technical work relating to investigations and inquiries concerning missing persons. The subcommittee was established on the understanding that it would hold its meetings in a country of the region, rather than at Geneva, in order to facilitate contacts between the authorities of the parties concerned, to assist in promoting a climate of confidence and to ensure the confidentiality required by the nature of the task. It was agreed that the subcommittee would hold monthly meetings and that it would submit regular reports on the progress made in its work to the tripartite committee. An understanding was also reached that the subcommittee would hold six meetings in the hope of thereby achieving substantive results to be referred to the tripartite committee for evaluation.

4. The original number of dossiers submitted on missing Kuwaitis and foreigners was 627. The efforts described hereunder reduced this number to 605. At the meeting of the tripartite committee held at Geneva on 7 April 1995, ICRC announced that the technical subcommittee had processed 168 dossiers at the three meetings it had held at Geneva in the first three months of the year.

5. The results thus far obtained by the relevant authorities in Iraq are as follows:

(a) It was discovered that 36 dossiers contained duplicate names and pertained to only 18 cases. Thus, 18 dossiers were subtracted from the original number.

(b) The remains of one missing person, Masfar Saqr Mahdi al-Matiri, were returned to the Kuwaiti authorities on 11 December 1994 under ICRC supervision. The relevant Iraqi authorities replied to all the questions relating to the

deceased addressed to them by the Kuwaiti authorities concerned. The Kuwaiti authorities nevertheless allege that they are not able to ascertain that the remains are those of the person in question. They have not thus far agreed to close the case and neither have they made any proposals with a view to doing so. In the meetings of the technical subcommittee the Kuwaiti authorities are insisting on their claim that the deceased is still imprisoned in Iraq.

(c) The relevant Iraqi authorities notified the Kuwaiti side that the Kuwaiti national Jamal Muhammad Sulayman al-Huli had died in detention after contracting a kidney disease. His personal identification papers were handed over to the Kuwaiti side at the meeting of the technical subcommittee held at Geneva on 23 February 1995. Subsequently, the Iraqi side submitted a map showing the approximate location where the deceased had been buried in Kuwait and then provided information based on memory that included a description of the place of burial. According to the record of the meeting of the technical subcommittee held on 30 March 1995, the Kuwaiti side promised to provide a precise map of the area so that the Iraqi side could use it to give an accurate indication of the place of burial. Kuwait has yet to produce this map, to provide any information on developments in the search for the body or to indicate whether or not the body has been found.

(d) The relevant Iraqi authorities recently traced the Kuwaiti national Nadiyah Muhammad Shatit al-Anazi, in whose name the Kuwaitis had submitted a dossier claiming that she was in detention in Iraq. This woman was found to be living in Baghdad, and she stated that she had left Kuwait for Iraq of her own free will and that she wished to remain in the country. The ICRC delegation in Baghdad was notified of her situation. Thus far, the delegation has questioned her alone on three separate occasions in order to assess her situation and resolve it in accordance with ICRC operating procedures.

6. Kuwait has not dealt in a serious manner with the preliminary replies provided by Iraq concerning many of the dossiers or with the questions asked and the requests for clarification and additional information made by Iraq in connection with some of them, while the provision of such information by Kuwait would certainly facilitate a serious investigation into the fate of the missing persons in question.

In almost all cases, Kuwait has resorted to pro forma answers of the type:

"Iraq is holding Kuwaitis with or without reason";

"The Iraqi authorities are responsible for the safety of detainees";

"The Iraqi registers are not to be trusted";

"Iraqi officials are not doing their duty as they should and are failing to record the names of missing persons in their registers";

"The witnesses to the shooting incident near the Holiday Inn in Kuwait City [an incident that is relevant to the cases of some of the missing persons] have left Kuwait".

Kuwait has also refused to give Iraq any explanation of the reasons for its requests that two files be closed and that the consideration of two others be suspended. Iraq has asked for clarification of these requests because of the possibility that the information available to Kuwait on the two persons in question might help to shed light on the investigation of other dossiers.

7. The Kuwaiti authorities have persistently thwarted the work of the technical subcommittee. At the outset, they prevented the implementation of the tripartite committee's decision that the meetings of the technical subcommittee should be held in the region, so that its first three meetings of 1995 were held at Geneva. Iraq nevertheless attended these three meetings and called attention to the breach of the tripartite committee's decision. In deference to the wishes of the coalition parties, Kuwait's partners in the committee, Kuwait agreed that the meetings of the subcommittee should be held in the region provided that they would be moved to its territory alone at a subsequent stage. Iraq did not agree to this proposal as lacking in balance. After consultation with ICRC, Iraq proposed that, in accordance with one of the committee's objectives, namely the development of a climate of confidence between the two sides, sessions of the subcommittee should be held alternately in Kuwaiti territory and Iraqi territory. The efforts of ICRC were successful and it was agreed that the session of the technical subcommittee scheduled for the end of May 1995 should be held in the Iraq-Kuwait border zone and should be preceded by a preparatory meeting at the beginning of the same month in the same location. The names of the members of the delegations of the two countries to the preparatory meeting were exchanged. At the last moment, however, Kuwait declined to attend the preparatory meeting without giving any justification for its decision.

ICRC thereupon resumed its efforts to arrange further meetings of the technical subcommittee. Kuwait agreed that on 17 June 1995 a delegation of the two sides should make an inspection tour of the facilities at the two sites, one on each side of the boundary line, at which the meetings of the technical subcommittee would be held, namely Camp Khawr on the Kuwaiti side and Umm Qasr on the Iraqi side.

Agreement was reached that the members of the two delegations should be granted entry visas, the representatives of Iraq at the Kuwaiti border station at Abdali and the representatives of Kuwait at the Iraqi border station at Safwan. The two border stations are situated on the expressway linking Kuwait City and Basra, and they are some 300 metres apart. The Iraqi delegation thus left for Basra on 16 June 1995 accompanied by representatives of ICRC in Baghdad. On the evening of the same day, the members of the Kuwaiti delegation informed ICRC that they wished on the following day to come directly to the Umm Qasr location, because they did not want to traverse the distance of 28 kilometres to the Iraqi Safwan border station to have their passports stamped there. The Iraqi side did not agree to this sudden change of plans for one simple technical reason, namely that Umm Qasr is not a border station and there are no competent border authorities present there to undertake the procedures required for recording border crossings and stamping passports. The Kuwaitis thus again thwarted the holding of the meeting. The tripartite committee will meet again on 3 and 4 August 1995 and will discuss this matter once more.

8. Having succeeded in preventing the technical subcommittee from meeting in the region, Kuwait began to call insistently for an end to its operations on the grounds that it had failed to fulfil its mandate. The reason for this position is not difficult to grasp. The technical character of the work of the subcommittee requires the parties to work together and a true readiness for joint action on all aspects of the information generated in the course of investigation so that, for humanitarian reasons, the issue may be brought to a close. Such a method of proceeding does not appeal to the Kuwaiti side, because it does not provide a forum in which charges can be levelled without commitment to serious participation in a substantive effort. It appears certain that Kuwait has reached the conclusion that the work of the technical subcommittee will not serve its political objectives as they relate to the prolongation of the embargo against Iraq by keeping this issue open as long as possible. The position adopted by Kuwait is reflected in the extensive political and media campaign it is inciting around this matter in violation of the tripartite committee's decision to adhere to the principle of confidentiality in accordance with ICRC operational norms and practices.

9. One perplexing aspect of the position maintained by Kuwait and the coalition partners that are members of the tripartite committee is the demand that Iraq should provide substantive replies on the dossiers within a limited period of time. This demand is irreconcilable with the nature of the search for missing persons. If the situation was as they imagine it to be, there would not now be dossiers that still remain open on persons missing in wars that have long been over.

10. In its letter, the Kuwaiti Government claims that at times Iraq launches initiatives and appeals for an inter-Arab solution or for endeavours by particular countries with the aim of politicizing the issue of the missing persons.

This allegation is completely false. It is the Kuwaiti regime that is roaming the world, east and west alike, seeking mediation by one and all, and the underlying aim in doing so is clearly political and propagandistic. What Iraq has done, for humanitarian reasons, is to respond positively to all who have offered their good offices in helping to resolve this issue. It appears, however, that Iraq's responsiveness to such efforts has been contrary to the Kuwaiti regime's expectations and that the Kuwaiti regime has therefore rejected these efforts. It may be useful in this connection to quote from a statement made by an official of the Kuwaiti regime, Mr. Salim al-Sabah, Chairman of the "National Committee for Matters Relating to Missing Persons, Detainees and Prisoners of War", at the press conference he held at United Nations Headquarters in New York on 3 May 1995:

> "We decided that since it was an Arab issue we should approach the League of Arab States, since it was an Islamic issue we should approach the Organization of the Islamic Conference, since it was an Asian issue we should approach the Asian countries and since it was a humanitarian issue we should approach non-governmental organizations. We also approached the Movement of Non-Aligned Countries and its Chairman, Mr. Soeharto, because we are all members of the Movement. I have myself met with many heads of

State and government and ministers for foreign affairs, and I have secured the support of all those with whom I have met."

The statement by this Kuwaiti official calls attention to the efforts made by his regime to politicize the issue of the missing persons and does not indicate an endeavour to resolve it. Had this regime been making a serious effort to resolve the situation, it would not have roamed the world in this fashion and then have found it too troublesome for its delegation to traverse the 28 kilometres separating the Iraqi border station and the Umm Qasr location at which the technical subcommittee was to have met for a serious discussion of the fate of the missing persons.

II. RETURN OF KUWAITI PROPERTY

1. The Kuwaiti letter in question characterizes Iraq's cooperation in this matter as "apparent and selective". This judgement is contrary to the facts set forth in the report of the Secretary-General circulated as document S/1994/243, which demonstrate Iraq's continuing cooperation in the return of property. Iraq has affirmed its readiness to return any item found and determined to belong to Kuwait, even if it is not included in the lists established by the United Nations coordinator for the return of property.

The hand-overs that have taken place since our letter of 25 May 1995 (S/1995/446) are as follows:

(a) On 9 July 1995 the hand-over of naval equipment was completed at Umm Qasr. The items handed over were as follows:

No.	Item	Quantity
1.	L90 landing craft	1
2.	L85 landing craft	1
3.	A1115 service craft (tug)	1
4.	Mechanical spare parts	
5.	Electrical spare parts and electronic devices	
6.	Dagaie electronic countermeasures station	1
7.	Engine hydraulic unit	1
8.	Sareco metal-plate cutter	1
9.	Naber model 3X5 electric furnace	1
10.	Horgalete stone furnace	1
11.	Smori device	1
12.	Brace	1
13.	Steam machine	1
14.	Dual electric silicon brushes	1
15.	Steam cleaner	1

No.	Item	Quantity
16.	Cylinder-grinding machine 2592	1
17.	Plane grinding machine No. 149002	1
18.	Large cradle	1
19.	1808 bending machine	1
20.	Honing machine 592531	1
21.	Electric diesel 915-1	1
22.	Cylinder regulator RM501011	1
23.	Battery charger	1
24.	Diesel cooler	1
25.	Smelting crucible	1
26.	German-made Hosch high-pressure fuel-pump gauge	1
27.	British-made Hartidy high-pressure fuel-pump gauge	1
28.	Mixer	1

(b) On 10 July 1995 a naval craft was handed over at buoy 6 at Umm Qasr.

(c) On 28 June 1995 an antique coffee-pot was handed over that had been found but was not included in the lists sent by the special coordinator.

2. The Kuwaiti letter states that the representative of Iraq to the "committee on the return of property" had said that the equipment that had been returned damaged had been brought from Kuwait in the same condition. This allegation shows great ignorance and contains a major distortion.

In the first place, there is no "committee" on the return of property but a "coordinator" for the return of property. We are surprised at the ignorance shown of the difference between a committee and a coordinator.

In the second place, the Kuwaiti letter appears to mock the intelligence of one and all by attributing to the representative of Iraq a statement that is untrue and then claiming that the statement is not in keeping with reason or logic.

III. OTHER MATTERS

The Kuwaiti letter finds fault with Iraq for its failure to address Security Council resolutions 706 (1991), 712 (1991) and 986 (1995) and tries to make a display of sympathy with the suffering of the people of Iraq, suffering that has been caused by the comprehensive embargo imposed on that people.

First, it must be stressed that the subject-matter of these resolutions has no connection, whether proximate or remote, with Kuwait and that the Kuwaiti regime's intrusion into that subject-matter does not in any way reflect good faith.

In another respect, sympathy for the suffering of the people of Iraq is not a slogan that has merely to be uttered in order to be believed by one and all but is rather a matter of actions taken and positions adopted. The Kuwaiti regime, for its part, unlike the Security Council resolutions themselves and despite their injustice, is calling for the maintenance of the embargo against Iraq until such time as its political regime is replaced. The official of the Kuwaiti regime to whom we referred above was asked at the press conference of 3 May 1995, "Do you believe that the issue of the missing persons is connected with paragraph 22 of resolution 687 (1991)?" He answered in a peremptory tone, "Yes, I certainly do."

How can someone who opposes the legal interpretation of paragraph 22 of resolution 687 (1991) for the purpose of prolonging the embargo against the people of Iraq declare that he sympathizes with that people?

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative